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defendant has, by statute, a right to withdraw the plea in all cases. *People* v. *Richmond*, 57 Mich. 399. Apart from such enactments, the question should be treated in a broad manner, unhampered by technical rules. On the one hand, the court must see that substantial justice is done to the defendant; on the other, it cannot allow a precedent by which an accused, fully understanding his situation, can plead guilty in the hope of judicial clemency, and then claim the right to withdraw his plea if the sentence is severe.

BILLS OF PEACE TO ENJOIN TORT ACTIONS. — The old conception of a bill of peace brought by several plaintiffs or against several defendants, requiring community of interest in the subject-matter among the persons joined, was long ago outgrown. *Mayor of York* v. *Pilkington*, 2 Atk. 302. Whether in the cases departing from the early rule the bill is properly called a bill of peace or a bill in the nature of a bill of peace, there is an overwhelming number of decisions in which the only community of interest was in the questions of law and fact involved and the relief sought. Pomeroy, Eq. Jur. 2d ed. §§ 261, note, 269. One court, however, has vigorously maintained that all these cases disclosed some recognized ground of equity jurisdiction other than the prevention of multiplicity of action, which is the basis of a bill of peace. *Tribette* v. *Illinois, etc. R. R. Co.*, 70 Miss. 882. A Tennessee case recently decided is in line with this opinion. Several actions for nuisance had been begun against a mining company which brought a bill to enjoin them on the ground that certain facts alleged constituted a common legal defence against all. The lower court dimissed the bill except as against three defendants who waived objection to the jurisdiction. No appeal was taken on this point, but the upper court indicated its approval of the position taken. *Ducktown Sulphur, etc. Co.* v. *Barnes*, 60 S. W. Rep. 593. The facts in *Tribette* v. *R. R. Co.*, *supra*, were similar and the decision the same. It seems hardly possible to sustain the narrow view of bills of peace which these two cases take. The only other case exactly parallel which has been found reaches the opposite result. *Guess* v. *Stone Mt., etc. Ry. Co.*, 67 Ga. 215. It is difficult to see any ground of equity jurisdiction in *Mayor of York* v. *Pilkington*, *supra*, except the identity of the question on which the several controversies turned. Other leading English and American cases are rested in the opinions solely on this ground. *Sheffield Waterworks* v. *Yeomans*, L. R. 2 Ch. App. 8. In the United States there is a class of cases, explainable only by the same principle, and supported by the weight of authority, in which several persons are allowed to bring a bill for an injunction against the collection of an illegal tax. *Carlton* v. *Newman*, 77 Me. 408. The contrary decisions in the tax cases rest on a ground foreign to this discussion. On principle the prevention of multiplicity of action seems a ground amply sufficient to support the jurisdiction in cases like the principal case, and no satisfactory reason has been found for restricting the scope of a just, convenient, and practical remedy.

The present case directly decides another interesting question. As between the plaintiff and those defendants who waived objection to the jurisdiction, the court decided that the alleged defence to the actions at law was not made out, and sustained a decree awarding to the three defendants damages for the nuisance. To this there are two objections. When the alleged common defence, which is the basis of the

bill, breaks down, the only ground on which the plaintiff is entitled to maintain a suit in equity or secure an injunction has failed, and the preliminary injunction should be dissolved, the bill dismissed, and the actions at law allowed to proceed. *Storrs* v. *Pensacola, etc. R. R. Co.*, 29 Fla. 617, 634. Otherwise a defendant in numerous actions arising out of the same facts could always transfer the trial of the cases to a court of equity by making the allegations of his bill sufficiently strong. If it be said that this is an objection which only the defendants may make, and which they may waive, we are met by the established rule, subject to a few well defined exceptions not here in point, that affirmative relief can be given to a defendant in equity only on a cross-bill. *Adams* v. *Beideman*, 33 N. J. Eq. 77. And though statutes in Tennessee and other states allow the answer to serve as a cross-bill, they do not alter the further rule that affirmative relief prayed in a cross-bill must be equitable relief. *Lautz* v. *Gordon*, 28 Fed. Rep. 264. The relief given in the principal case was purely legal, and should not have been granted.

Jurisdiction in Habeas Corpus Proceedings. — In a recent New York case a question arose as to the power of the court to issue a writ of *habeas corpus*, where the prisoner had been removed beyond its jurisdiction. Strangely enough, with the single exception of an elaborate discussion by an equally divided court, in a Michigan case, the point has received but slight consideration. *In re Jackson*, 15 Mich. 417. There is, however, some American authority each way upon the subject. *In re Larson*, 31 Hun, 539; *Rivers* v. *Mitchell*, 57 Iowa, 193. In the principal case, the defendant, a New York charitable institution, had been intrusted with a child and had bound it out to service in Illinois. The father sued out a writ of *habeas corpus* in New York to compel the defendant to produce the child. The writ was dismissed on the ground that it did not appear that the defendant had any control over the child. *People* v. *N. Y. Juvenile Asylum*, 68 N. Y. Supp. 279. The court unanimously agreed that the fact that the restraint was being exercised in a foreign jurisdiction would not of itself deprive the court of its jurisdiction. The minority went further, and held that, to excuse itself, the defendant must show that it was absolutely impossible for it in any way to obtain the child. This view is substantially the one adopted in the modern English cases. *Queen* v. *Barnardo*, 24 Q. B. Div. 283.

An examination of the history and principles of the writ does not confirm the court's position. When first the writ was allowed to a father who had been deprived of his child, its operation was confined within narrow limits. Only when the child was not *sui juris* would the court deliver it over to its father or to any one else. Otherwise, the child was merely released and allowed to go where it pleased; it was even allowed to return to the defendant. *Rex* v. *Delaval*, 3 Burr. 1436. The writ was regarded as a prerogative writ, issued on behalf of the sovereign, to inquire into the imprisonment of a subject. Its aim was to remedy a public grievance, and only indirectly to benefit the one who obtained the writ. Obviously, then, the question for the court was not whether a father was deprived of his child, but whether a person was subjected to improper restraint within its limits. A subject may have been kidnapped in the state, but the injury to the state ended when its border line was passed.